Supreme Court, U. S.
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MICHAEL RODAK, JR., CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1975

No. 52 Original

UNITED STATES OF AMERICA,
Plaintiff

v.

STATE OF FLORIDA,
Defendant

Supplemental Report of Albert B. Maris, Special Master

December 30, 1975

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SUPPLEMENAL REPORT OF ALBERT B. MARIS, SPECIAL MASTER

This case involves the determination of the extent of the rights of the State of Florida, as against the United States of America, to the seabed and subsoil of the continental shelf seaward of its coastline on the Atlantic Ocean, and a more precise determination than had previously been made of the extent of those rights seaward of the coastline in the Gulf of Mexico. Necessarily involved is the determination of the exact location of those coastlines. In my previous report to the Court, filed January 18, 1974, the course of the prior proceedings in the case was fully described. In that report I made recommendations for the determinaton of all the issues in the case. Exceptions to my report were filed by each of the parties. In its opinion Per Curiam, filed March 17, 1975, 420 U.S. 531, the Court overruled all the exceptions filed by the State of Florida.

The exceptions filed by the United States involved my recommendations with respect to the recognition of a portion of Florida Bay as a juridical bay and the recognition as inland waters of the State of Florida of the narrow waters lying between the individual islands of the three groups of islands known, respectively, as the lower Florida Keys, the Marquesas and the Dry Tortugas. With respect to these recommendations I had not had the benefit of the contentions for and against the exceptions of the United States which were advanced by the parties in the Supreme Court. The Court accordingly referred those exceptions back to me for consideration, with authority to conduct supplemental proceedings with respect thereto and to file a supplemental report restricted to the issues involved in them.

Pursuant to the direction of the Court a prehearing conference with counsel was held in my chambers in Philadelphia on April 4, 1975 at which the issues involved and the future procedure were discussed. Following that conference counsel entered into negotiations for an agreed settlement of the questions involved in the exceptions of the United States. Such an agreement was ultimately reached and embodied in a written stipulation, dated December 11, 1975, signed by Hon. Robert L. Shevin, Attorney General of the State of Florida, and Hon. Robert H. Bork, Solicitor General of the United States of America.

Briefly summarized the stipulation, in addition to articulating the understanding of the parties as to the issues already resolved by the Court, provides

(1) that the State of Florida is entitled to the exclusive right to explore and exploit the natural resources of the continental shelf lying within three marine leagues of its coastline in the Gulf of Mexico as it existed in 1868 but not more than three leagues from its present coastline:

(2) that since the Gulf coastline is likely to have undergone few significant changes since 1868, that coastline, for purposes of measuring the area of Florida's Submerged Lands Act grant, will be deemed to be that depicted on the charts constructed from information acquired through the joint state-federal mapping project presently being conducted;

(3) that there is no juridical bay between the upper Florida Keys and the Florida mainland whose closing line affects the seaward limit of Florida's Submerged Lands Act grant;

(4) that the narrow waters within the lower Florida Keys, the Marquesas and the Dry Tortugas are generally territorial seas and not inland waters, and there are no such inland waters whose closing lines affect the seaward limit of Florida's Submerged Lands Act grant; and

(5) the coastline of Florida from which is to be measured its Submerged Lands Act grant is recognized to be ambulatory, as are offshore boundaries measured from that coastline.

The original signed stipulation of the parties is being filed with the Clerk of the Court today and a copy is annexed to this report, as Appendix A. In my opinion, the stipulation effects a reasonable and just solution of the issues remaining in the case and should be approved.

There now being no issues remaining to be resolved, I recommend that the stipulation of the parties be approved and that the parties be directed to submit to the Court forms of a declaratory decree in accord with the findings and conclusions set out in my report of January 18, 1974 modified to the extent necessary to conform with the stipulation of the parties submitted herewith, the decree to be drawn with the necessary technical precision to carry those findings and conclusions into effect. The decree should also provide that each party bear its own

costs and that the expenses of the special master be borne by the parties in equal shares. It should also reserve the jurisdiction of the Court to entertain such further proceedings, enter such orders and issue such writs as may from time to time be deemed necessary or advisable to supplement the decree and give it proper force and effect.

Respectfully submitted,

ALBERT B. MARIS,
Special Master

December 30, 1975

APPENDIX A

STIPULATION

The United States of America and the State of Florida, in an attempt to resolve all remaining issues in this litigation and articulate their mutual understanding of material issues already resolved through recommendation of the Special Master and adoption by the Supreme Court of the United States, agree as follows:

1. The coastline of the State of Florida, from which are to be measured the boundaries of the said State of Florida for the purposes of the Submerged Lands Act, 43 U.S.C. 1301, *et seq.*, is the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limits of inland waters and bays, as determined by pertinent articles of the Convention on the Territorial Sea and the Contiguous Zone, Geneva 1958, 15 U.S.T. (Pt. 2) 1606.

2. For the purposes of Paragraph One (1) of this Stipulation, the "coast" of the State of Florida refers not only to the mainland coast but also to the coast of any island which is a part of Florida, and of any low-tide elevation which is within three (3) geographic miles of the Florida mainland or any island which is a part of Florida.

3. The coastline referred to in Paragraph One (1) above is recognized to be ambulatory as are offshore boundaries measured from this coastline.

4. In the Atlantic Ocean, the State of Florida is entitled, as against the United State and all persons claiming under it, to the exclusive right to explore and exploit the natural resources of the continental shelf lying within three (3) geographic miles of the coastline referred to in Paragraph One (1) above.

5. In the Gulf of Mexico, the State of Florida is entitled, as against the United States and all persons claiming under it, to the exclusive right to explore and exploit the natural resources of the continental shelf lying within three (3) marine leagues of the coastline of Florida as it existed in 1868 as determined in accordance with Paragraph Ten (10) below but not more than three (3) leagues seaward of the coastline referred to in Paragraph One (1) above.

6. As against the State of Florida and all persons claiming under it, the United States has exclusive rights to explore and exploit the natural resources of the continental shelf lying seaward of the areas described in Paragraphs Four (4) and Five (5) above.

7. For the purposes of this litigation, there is no juridical bay between the upper Florida Keys and the Florida mainland (an area commonly referred to as "Florida Bay") whose closing line affects the seaward limit of Florida's Submerged Lands Act grant.

8. For the purposes of this litigation, the narrow waters within the lower Florida Keys from Money Key to Key West, the Marquesas Keys, and the Dry Tortugas Islands are generally territorial seas and not inland waters.

9. For the purposes of this litigation, there are no inland waters within the lower Florida Keys from Money Key to Key West, the Marquesas Keys, or the Dry Tortugas Islands whose closing lines affect the seaward limit of Florida's Submerged Lands Act grant.

10. Evidence has been introduced in hearings before the Special Master in this case which indicates that the Gulf Coast of Florida is a low-energy coastline and is likely to have undergone few significant changes since 1868. The parties therefore stipulate, for purposes of mea-

suring the area of Florida's Submerged Lands Act grant as described in Paragraph Five (5) above, that the charts constructed from information acquired through the joint state/federal mapping project presently being conducted will be deemed to depict accurately the location of Florida's 1868 coastline. Florida's Submerged Lands Act grant in the Gulf of Mexico therefore extends a maximum of three (3) marine leagues from the low-water line as shown on those charts and the seaward limits of inland waters as such waters would have been defined under principles employed by the United States in 1868.

[*sgd.*] Robert L. Shevin
ROBERT L. SHEVIN
Attorney General
State of Florida

[*sgd.*] Robert H. Bork
ROBERT H. BORK
Solicitor General
United States of America

Dated: December 11, 1975